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UNITED STATES PATENT AND TRADEMARK OFFICE

DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES
BOX INTERFERENCE, WASHINGTON, D.C. 20231

Filed by: Judge Mark Nagumo
Telephone: (703) 308-9797
Facsimile: (703) 305-0942

Applicants: KLINTZ
Application No.: 09/733,554
Filed: 12/04/00
For: SUBSTITUTED 3-PHENYLURACILS
Accorded benefit: 08/774,722, filed 01/03/97;
08/211,067, filed 03/18/94; PCT/EP92/02088,
filed 09/10/92

The above-identified application or patent has been forwarded to the Board of Patent Appeals and Interferences because it is adjudged to interfere with another application or patent. An interference has been declared. The interference is designated as No. 105,039.

Notice is hereby given the parties of the requirement of the law for filing in the Patent and Trademark Office a copy of any agreement "in connection with or in contemplation of the termination of the interference." 35 U.S.C. § 135(c).


MARK NAGUMO
Administrative Patent Judge

INTERFERENCE DIGEST

Interference No. 105,039

Paper No. 18

Name: Ralf Klintz et al.

Serial No.: 09/733,554

Patent No.

Title: SUBSTITUTED 3-PHENYLURACILS

Filed: 12/04/00

Interference with Andree et al.

DECISION ON MOTIONS

Administrative Patent Judge, _____ Dated, _____

FINAL DECISION

Board of Patent Appeals and Interferences, Adverse Dated, 6.27.03

Court, _____ Dated, _____

REMARKS

This should be placed in each application or patent involved in interference in addition to the interference letters.

The opinion in support of the decision being entered today is not binding precedent of the Board.

Paper 1

Filed by: Mark Nagumo
Administrative Patent Judge
Box Interference
Washington, D.C. 20231
Tel: 703-308-9797
Fax: 703-305-0942

Filed
6 December 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

ROLAND **ANDREE**,
MARK WILHELM DREWES, MARKUS DOLLINGER,
and HANS-JOACHIM SANTEL

Junior Party
(Patent No. 6,251,828),

v.

RALF **KLINTZ**, PETER SCHAEFER,
GERHARD HAMPRECHT, ELISABETH HEISTRACHER,
HANS-JOSEF WOLF, KARL-OTTO WESTPHALEN,
MATTHIAS GERBER, UWE KARDORFF, HELMUT WALTER,
and KLAUS GROSSMANN

Senior Party
(Application No. 09/733,544).

Patent Interference 105,039 (NAGUMO)

NOTICE DECLARING INTERFERENCE
(37 CFR § 1.611)

Part A. Declaration of interference

An interference is declared (35 U.S.C. § 135(a)) between the above-identified parties.

Details of the application and patent, counts and claims designated as corresponding or as not corresponding to the counts appear in Parts E and F of this NOTICE DECLARING INTERFERENCE.

MAILED

DEC 6 - 2002

PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Part B. Judge designated to handle the interference

Administrative Patent Judge Mark Nagumo has been designated to handle the interference. 37 CFR § 1.610(a).

Part C. Standing order

A Trial Section STANDING ORDER accompanies this NOTICE DECLARING INTERFERENCE. The STANDING ORDER applies to this interference.

Part D. Conference call to set dates

A telephone conference call to set dates for taking action in the interference is scheduled for 10:00 a.m. on February 5, 2003 (the call will be initiated from the PTO).

No later than **two business days** prior to the conference call, each party shall file and serve by facsimile a list of the preliminary motions the party intends to file. See § 17 of the STANDING ORDER.

A copy of a "sample" order setting times for taking action during the preliminary motion phase of the interference accompanies this NOTICE DECLARING INTERFERENCE.

Counsel are encouraged to discuss the order prior to the conference call with the view to coming to some mutual agreement as to dates for taking action. A typical preliminary motion period lasts approximately nine (9) months. Counsel should be prepared to justify any request for a shorter or longer period.

Part E. The parties involved in this interference are:

Junior Party

Named inventors: Roland Andree, F.R. Germany
Mark Wilhelm Drewes, F.R. Germany
Markus Dollinger, F.R. Germany
Hans-Joachim Santel, F.R. Germany

Patent: 6,251,828
§ 371 date: January 23, 1998

Title: Substituted phenyluracils

Assignee: Bayer AG

Accorded Benefit: (1) PCT/EP96/03223
filed July 22, 1996
(2) F.R. Germany 195-28-186.1
filed August 1, 1995

Attorneys: See last page

Address: See last page

Senior Party

Named Inventors: Ralf Klintz, F.R. Germany
Peter Schaefer, F.R. Germany
Gerhard Hamprecht, F.R. Germany
Elisabeth Heistracher, F.R. Germany
Hans-Josef Wolf, F.R. Germany
Karl-Otto Westphalen, F.R. Germany
Matthias Gerber, F.R. Germany
Uwe Kardorff, F.R. Germany
Helmut Walter, F.R. Germany
Klaus Grossmann, F.R. Germany

Application: 09/733,554¹
filed December 4, 2000

Title: Substituted 3-phenyluracils

Assignee: BASF AG

Accorded Benefit: (1) 08/774,722
filed January 3, 1997
(2) PCT/EP92/02088
filed September 10, 1992

Attorneys: See last page

Address: See last page

¹ This application is a division of 08/774,722, which is a national stage of PCT/EP92/02088.

Part F. Counts and claims of the parties

Count 1

The composition of matter according to claim 1 of
Andree, U.S. Patent No. 6,251,828

or

the composition of matter according to claim 1 of Klintz,
U.S. Application Serial No. 09/733,554.

The claims of the parties are:

Andree: 1-6

Klintz: 1-7, 12, 13, 15, 16, 26-30, 36, 37, 39, 40,
43-51, 53-56

The claims of the parties that correspond to Count 1 are:

Andree: 1-4, 6

Klintz: 1-5, 7, 12, 13, 15, 16, 26-28, 30, 36, 37,
39, 40, 43, 45-51, 53-55

The claims of the parties that do not correspond to Count 1
are:

Andree: 5

Klintz: 6, 29, 44, 56

Count 2

The composition of matter according to claim 56 of Klintz, U.S. Application Serial No. 09/733,554.

The claims of the parties are:

Andree: 1-6

Klintz: 1-7, 12, 13, 15, 16, 26-30, 36, 37, 39, 40,
43-51, 53-56

The claims of the parties that correspond to Count 1 are:

Andree: 5

Klintz: 56

The claims of the parties that do not correspond to Count 2 are:

Andree: 1-4, 6

Klintz: 1-7, 12, 13, 15, 16, 26-30, 36, 37, 39, 40,
43-51, 53-55

The claims of the parties that do not correspond to either Count 1 or Count 2, and hence that are not involved in this interference, are:

Andree: none

Klintz: 6, 29, 44

Part G. Heading to be used on papers

The following heading shall be used on papers filed in the interference. See § 18 of the STANDING ORDER.

_____ Paper _____²

Filed on behalf of [name of party]
By: Name of lead counsel, Esq.
Name of backup counsel, Esq.
Street address
City, State, and Zip-Code
Tel:
Fax:

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

ROLAND **ANDREE**,
MARK WILHELM DREWES, MARKUS DOLLINGER,
and HANS-JOACHIM SANTEL
Junior Party
(Patent No. 6,251,828),

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RALF **KLINTZ**, PETER SCHAEFER,
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HANS-JOSEF WOLF, KARL-OTTO WESTPHALEN,
MATTHIAS GERBER, UWE KARDORFF, HELMUT WALTER,
and KLAUS GROSSMANN
Senior Party
(Application No. 09/733,544).

Patent Interference 105,039 (NAGUMO)

TITLE OF PAPER

² Leave a blank line because the board assigns the paper number.

Part H. Summary of dates for taking action

Times for taking action are set out in the following sections of the STANDING ORDER:

1. § 7: date for identifying lead and backup counsel.
2. § 8: date for identifying any real party in interest.
3. § 9: date for requesting copies of involved and benefit applications and patents.
4. § 17: date for filing list of proposed preliminary motions.
5. § 19: date for accomplishing certain discovery.
6. § 20: date for filing clean copy of claims.
7. § 21: date for filing clean copy of claims in cases with drawings and/or claims containing a means plus function limitation.
8. § 23: dates for filing oppositions to Rule 635 miscellaneous motions and dates for filing replies to oppositions.
9. § 33: date for objecting to admissibility of evidence.
10. § 34: date for serving supplemental affidavits or evidence to respond to objection to admissibility of evidence.
11. § 35: dates when cross-examination can take place.
12. § 45: dates for taking action with respect to settlement discussions

Part I. Order form for requesting file copies

FILE COPY REQUEST

Interference 105,039 (Nagumo)

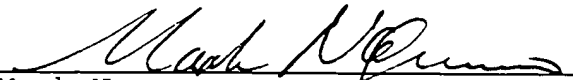
A copy of Part E of this NOTICE DECLARING INTERFERENCE should be attached to this FILE COPY REQUEST, with a circle by hand around the patents and applications for which a copy of a file wrapper is desired.

To facilitate processing of this FILE COPY REQUEST, the following information should be included:

1. Charge fees to USPTO Deposit Account No. _____
2. Complete address, including street, city, state, zip code and telephone number (do not list a Post Office box inasmuch as file copies are sent via commercial overnight courier).

Telephone, including area code: _____

Part J. Signature of administrative patent judge


Mark Nagumo
Administrative Patent Judge

Enc:

Copy of STANDING ORDER

Copy of order used for setting times for taking action in
the preliminary motion phase of the interference (ORDERPM6)

Copy of order used for setting times for taking action in
the testimony and briefing phases of the interference
(ORDERTE6)

Copy U.S. Patent 6,251,828

Copy of claims of 09/733,554

DECLARE mn 007.wpm
Revised September, 2000
(replaces DECLARE.006.1)

cc (via Federal Express):

Attorney for Andree
(Real party in interest, Bayer AG)

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